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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GURMEET SINGH,

Plaintiff,

v.

U.S. Department of Homeland Security;
MICHAEL CHERTOFF, Secretary, U.S.
Department of Homeland Security; U.S.
Citizenship and Immigration Services;
EMILIO T. GONZALEZ, Director, U.S.
Citizenship and Immigration Services;
DAVID N. STILL, District Director, USCIS
San Francisco District Office; F. GERARD
HEINAUER, Director, USCIS Nebraska Service
Center,

Defendants.

No. C 07-2202 JCS

**STIPULATION TO HOLD CASE IN
ABEYANCE; AND [PROPOSED] ORDER**

The plaintiff, by and through his attorney of record, and defendants, by and through their attorneys of record, hereby jointly ask this Court to once again extend the date of the case management conference, currently scheduled for June 6, 2008, by approximately 30 days in light of the following:

1. The plaintiff is a native and citizen of India who entered the United States on September 11, 1998, as a visitor for business.

2. On March 22, 1999, the plaintiff filed a Form I-589 application for asylum with USCIS, and

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

an Immigration Judge in San Francisco granted that application.

3. After receiving his grant of asylum by the Immigration Judge, the plaintiff filed an I-485 application with USCIS, pursuant to 8 U.S.C. § 1159, to adjust his status to lawful permanent resident (commonly referred to as a “green card” holder) on February 13, 2004.

4. In addition, on April 4, 2003, the plaintiff filed Form I-730 petitions at the Nebraska Service Center on behalf of his spouse, step-son, and so, pursuant to 8 U.S.C. § 1158(b)(3) (stating that an alien granted asylum may file a petition seeking to confer derivative asylum status upon a spouse or child under 8 U.S.C. § 1158(b)(3)).

5. The USCIS denied the plaintiff’s I-485 application on March 9, 2007, for two reasons. First, the USCIS found that the plaintiff had not fulfilled the statutory requirements for eligibility under 8 U.S.C. § 1159(b), because he had provided material support to members of the Khalistan Liberation Force. Second, the USCIS denied the plaintiff’s I-485 application in the exercise of its discretion.

6. The USCIS denied the plaintiff’s I-730 petitions in the exercise of discretion on March 9, 2007, and April 11, 2007, based on the agency’s finding that because plaintiff had been denied adjustment of status, and he is wanted on an arrest warrant involving unresolved allegations of violent crimes, it would not be in the best interests of the United States to permit plaintiff to create additional ties to the United States by bringing his derivative spouse and children here.

7. The plaintiff filed an action in this Court on April 23, 2007, seeking review of the decisions by USCIS to deny his Form I-485 application for adjustment of status and the Form I-730 petitions that the plaintiff filed on behalf of his wife, step-son, and son.

8. Pursuant to a stipulation signed by this Court on October 3, 2007, the parties agreed to file cross-motions for summary judgment by November 12, 2007; to file cross-oppositions by November 26, 2007; to file cross-replies by December 3, 2007; and to participate in a hearing on February 15, 2008.

9. On November 13, 2007, the parties filed a stipulation, pursuant to which USCIS agreed to *sua sponte* reopen the I-485 and I-730 proceedings to address whether, pursuant to 72 Fed. Reg. 9958-01 (March 6, 2007), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI) applies to the support the plaintiff

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provided, allegedly under duress, to a terrorist organization as described in 8 U.S.C. § 1182(a)(3)(B)(vi)(III). This court signed the parties stipulation and the case was held in abeyance.

10. The USCIS has re-opened the I-485 and I-730 proceedings and the plaintiff has submitted materials and legal argument in support of his application for adjustment of status (Form I-485 application) and asylee petitions (I-730 petitions).

11. Although USCIS expected to issue a decision within 60 days of receipt of the plaintiff's materials and legal argument, USCIS has not yet done so. However, USCIS is committed to issuing a decision within 30 days.

Accordingly, the parties jointly ask this Court to vacate the case management conference, currently scheduled for June 6, 2008, and to re-schedule a case management conference for **July 11, 2008**.

Dated: May 30, 2008

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

/s/
EDWARD A. OLSEN
Assistant United States Attorney
Attorneys for Defendants

Dated: May 30, 2008

/s/
ROBERT B. JOBE
Law Offices of Robert B. Jobe
Attorney for Plaintiff

ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Dated: 6/2/08


JOSEPH C. SPERO
United States Magistrate Judge

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